

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIE LEE NOBLES,

Petitioner,

v.

RICHARD MORGAN,

Respondent.

Case No. C05-53748RJB

ORDER GRANTING  
PETITIONER'S MOTION FOR  
AN EXTENSION OF TIME

This matter is before the court on petitioner's motion to stay the matter, which was filed on or about June 9, 2005. The motion to stay is based on the admission that a claim is pending in state court and the petition is being filed to ensure that it is not time barred at a later date. The motion was served on Washington's Attorney Generals Office of Criminal Justice, but the court has not received any response to the motion. Having reviewed the record, the court finds and orders as follows.

1. District courts must dismiss "mixed" habeas petitions, containing both exhausted and unexhausted claims. Rose v. Lundy, 455 U.S. 509, 510, 522, 102 S.Ct. 1198, 71 L.Ed.2d 379 (1982). A petitioner who has filed a mixed petition has the choice of amending the petition by deleting the unexhausted claims, or dismissing the petition and pursuing the unexhausted claims in state court. Id. at 510, 102 S.Ct. 1198. District courts, however, may use a "stay-and-abeyance" procedure in which the court dismisses the unexhausted claims while staying the remaining exhausted claims. Pliler v. Ford, --- U.S. at ----, 124 S.Ct. at 2445 (*citing* Calderon v. United States District Court (Taylor), 134 F.3d 981, 988

